

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAULA A KAUFMANN
Claimant

THRIVE TOGETHER LLC
Employer

APPEAL 21A-UI-13468-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/14/21
Claimant: Appellant (4R)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 26, 2021 (reference 02) unemployment insurance decision that denied benefits to the claimant based on her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on August 9, 2021. Claimant participated personally. The employer did not participate. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked for the employer as a part-time bartender beginning in approximately June of 2020. Claimant had no guarantee of a certain number of hours per week but picked up shifts as they became available. Her last day on the job during that period of employment was April 17, 2021. She voluntarily quit her part-time position with this employer to accept a part-time position with another employer as a bartender with a higher hourly rate of pay. The claimant worked for the second employer, BWW, until approximately May 31, 2021. She returned to this employer as a part-time bartender again in approximately June of 2021.

The issue of whether the claimant was still employed at the same hours and same wages as her original contract of hire effective March 14, 2021 has not been adjudicated by the Benefits Bureau. That issue will be remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

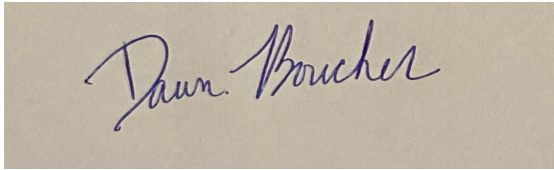
In this case, the claimant voluntarily quit for the sole purpose of accepting better employment. As such, the claimant's voluntarily quit was not disqualifying because she quit for the sole purpose of accepting an offer of other employment. Benefits are allowed, provided the claimant is otherwise eligible. The issue of whether the claimant was still employed at the same hours and same wages as her original contract of hire effective March 14, 2021 will be remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The May 26, 2021 (reference 02) unemployment insurance decision is modified in favor of the appellant. The separation from employment with this employer is not disqualifying because she voluntarily quit for the sole purpose of accepting better employment. Benefits are allowed, provided the claimant is otherwise eligible. No charges shall accrue to this employer.

REMAND:

The issue of whether the claimant was still employed in her part-time position at the same hours and same wages as her original contract of hire effective March 14, 2021 is remanded to the Benefits Bureau for an initial investigation and determination.



Dawn Boucher
Administrative Law Judge

August 12, 2021
Decision Dated and Mailed

db/kmj